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8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 1H 2008 062

11 SUE ALLISON MYERS
12 P.O. Box 384
Mammoth Lakes CA 93546

A C C U S A T I O N

13
14 Respiratory Care Practitioner License No. 19702

15 Respondent.

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17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Respiratory Care Board of California,
21 Department of Consumer Affairs.

22 2. On or about September 11, 1997, the Respiratory Care Board issued
23 Respiratory Care Practitioner License Number 19702 to Sue Allison Myers (Respondent). The
24 Respiratory Care Practitioner License was in full force and effect at all times relevant to the
25 charges brought herein and will expire on November 30, 2008, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Respiratory Care Board (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “(g) Conviction of a violation of any of the provisions of this chapter or of any
12 provision of Division 2 (commencing with Section 500), or violating, or attempting to
13 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
14 violate any provision or term of this chapter or of any provision of Division 2
15 (commencing with Section 500).”

16 7. Section 3750.5 of the Code states:

17 “In addition to any other grounds specified in this chapter, the board may deny,
18 suspend, or revoke the license of any applicant or license holder who has done any of the
19 following:

20 “(c) Applied for employment or worked in any health care profession or
21 environment while under the influence of alcohol.”

22 8. Section 3755 of the Code states:

23 “The board may take action against any respiratory care practitioner who is charged with
24 unprofessional conduct in administering, or attempting to administer, direct or indirect
25 respiratory care... The board may determine unprofessional conduct involving any and all
26 aspects of respiratory care performed by anyone licensed as a respiratory care
27 practitioner.”

1 14. On or about January 11, 2008, respondent was employed as a respiratory
2 care practitioner at Mammoth Hospital in Mammoth Lakes, California. Respondent was
3 scheduled to work from 0700 hours (7:00 a.m.) until 1930 hours (7:30 p.m.), and on call from
4 1930 hours (7:30 p.m.) until 0700 (7:00 a.m.) on January 12, 2008.

5 15. On January 11, 2008, Respondent began her work shift at 0700 hours
6 (7:00 a.m.). At about 0920 hours (9:20 a.m.), respondent was asked to assist a physician in
7 performing a cardiac stress test on a patient. Respondent requested assistance from C.M.,
8 Cardiopulmonary Manager at Mammoth Hospital, stating that she was afraid to lean over the
9 patient because she “still smelled liked alcohol” and had a “bad hangover” from drinking alcohol
10 the night prior to her shift.

11 16. In accordance with hospital policy, C.M. removed respondent from her
12 work shift, and escorted respondent to the Human Resources Department. Respondent was then
13 taken to the hospital lab for a breathalyzer test. The test results were positive for alcohol in the
14 amount of .119% and a second test result was .105%. Respondent was removed from duty and
15 sent home, pending further investigation.

16 17. Respondent’s act of being under the influence of alcohol while employed
17 as a respiratory care practitioner is in violation of code sections 3750(g), 3750.5(c) and CCR
18 1399.370(a), thereby subjecting her license to discipline.

19 SECOND CAUSE FOR DISCIPLINE

20 (Unprofessional conduct)

21 18. Paragraphs 14 through 16 are incorporated herein.

22 19. Respondent’s act of being under the influence of alcohol while employed
23 as a respiratory care practitioner is unprofessional conduct in violation of code section 3755,
24 thereby subjecting her license to discipline.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number 19702, issued to Sue Allison Myers.
2. Ordering Sue Allison Myers to pay to the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: April 4, 2008

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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